

ORIGINAL

FILED

MAY 17 2011

CLERK
United States Bankruptcy Court
San Jose, California

1 Booker T. Wade Jr.
2 1010 Corporation Way
Palo Alto, CA 94303
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3 650 965 4014 fax
bookertwade@hotmail.com

4 In Propria Persona

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6 **UNITED STATES BANKRUPTCY COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN JOSE DIVISION**

9 In Re:)
10) Bk. No. 09-58098 ASW
11 TV-32 DIGITAL VENTURES, INC.,) Chapter 11
a California Corporation,)
12 Debtor)
-----)

APPELLANT BOOKER T. WADE JR.'S
DESIGNATION OF RECORD AND
HEARING TRANSCRIPTS AND
STATEMENT OF ISSUES ON APPEAL

13 **On Appeal To The**

14 **United States Bankruptcy Appellate Panel of the Ninth Circuit**

15 **TO THE CLERK OF THE COURT:**

16 Appellant Booker T. Wade Jr., having filed a Notice of Appeal on May 2, 2011, from an
17 order of the Court, dated April 18, 2011, which granted Sterling Savings Bank relief from the
18 automatic stay, hereby submits this designation of record and transcripts and statement of issues on
19 appeal to the United States Bankruptcy Appellate Panel for the Ninth Circuit.

20 I. STATEMENT OF ISSUES

21 A. Did the Bankruptcy Court err in granting Sterling Savings Bank relief from the automatic
22 stay -

23 (1) by among other things implicitly and explicitly accepting the representation of the U.S.
24 Small Business Administration that the agency would not vote to support Debtor's proposed
25 Third Amended Reorganization Plan as a basis to find the reorganization plan infeasible?

26 (2) by among other things failing to make a ruling prior to granting relief from the automatic
27 stay as to the applicability of 11 U.S.C. 1126(a).

28 B. Did the Bankruptcy Court err in denying Appellant the opportunity to invoke Bankruptcy
Rule 2004 examinations and production of documents?

II. DESIGNATION OF CONTENTS OF RECORD

Appellant hereby designates the following items, pleadings and transcripts from the docket of the Bankruptcy Court Case No 09-58098 to be included in the record on appeal and request that the clerk of the court prepare and transmit the Certificate of Record on appeal to the United States Bankruptcy Appellate Panel for the Ninth Circuit, pursuant to Federal Rules of Bankruptcy Procedure 8006. The designation are shown below:

May 17, 2011

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| | DATE | DOCKET | DESCRIPTION |
|----|---------------|--------|--|
| 1 | 5/17/2011 | | Hearing Transcripts of - (1) Sterling Bank's Objection to Proof of Claim of Minority Television Project Inc. (2) Motion To Limit Appearance of Small Business Administration (3) Ex Parte Motion Reconsideration of Orders for Pursuant to Rule 2004 |
| 2 | 5/17/ 2011 | 155 | Brief in Opposition to Booker Wade's Ex Parte Motion for Reconsideration for Orders Pursuant to Rule 2004 filed by Sterling Saving Bank |
| 3 | 5/10/2011 | 156 | Ex Parte Motion for Reconsideration for Orders Pursuant to Rule 2004 Authorizing and Directing the Production of Documents and Examinations |
| 4 | May 5, 2011 | 149 | [Proposed] Orders Denying Applications for Orders Directing Examinations of Sterling Savings Bank and Capital Access Group Inc. and For Production of Documents Pursuant to Bankruptcy Rule 2004 |
| 5 | May 4, 2011 | 147 | Applications for Orders Directing Examinations of U.S. Small Business Administration For Production of Documents Pursuant to Bankruptcy Rule 2004 |
| 6 | May 5, 2011 | | Applications for Orders Directing Examinations of Sterling Savings Bank and Capital Access Group Inc. and For Production of Documents Pursuant to Bankruptcy Rule 2004 |
| 7 | April 18 2011 | 130 | Order Granting Sterling Savings Bank's Motion for Relief from the Automatic Stay Hearing Continued (RE: related document(s) 35 Motion to Appoint Trustee Filed by Creditor Arlene Stevens, |
| 8 | 12/7/2010 | 102 | Objection to Debtor's Third Amended Disclosure Statement Filed by Creditor Sterling Savings Bank |
| 9 | 4/ 1/2011 | | Hearing Transcript of Order Granting Sterling Savings Bank Motion for Relief from the automatic Stay |
| 10 | 11/9/2010 | 98 | Third Amended Chapter 11 Plan , Third Amended Disclosure Statement Filed by Debtor TV-32 Digital Ventures Inc. |
| 11 | 10/8/2010 | 95 | Order Temporarily Granting in part, Denying in part Motion for Relief From Stay (Related Doc # 72) (Entered: 10/08/2010) |
| 12 | 12/14/2010 | | Hearing Transcript Reciting U.S. Small Business Administration Non-Support of Third Amended Reorganization Plan |
| 13 | 3/1/2010 | 117 | Motion for Relief from Stay Filed by Creditor Sterling Savings Bank (Attachments: # 1 RS Cover Sheet # 2 Request for Judicial Notice# 3 Declaration of Lori Crechriou (with Exhibits A and B)# 4 Exhibit Exhibit C to Declaration of Lori Crechriou# 5 Exhibit D to Declaration of Lori Crechriou) |

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| 1 | 12/23/2010 | 106 | Pre-Hearing Statement (<i>SBA</i>) (RE: related document(s) Filed by Creditor Sterling Savings Bank |
| 2 | 12/30/2010 | 108 | Status Conference Statement of Booker T. Wade in Response to that of SBA |
| 3 | 7/30/2010 | 72 | Motion for Relief from Stay Filed by Creditor Sterling Savings Bank |
| 4 | 11/09/2010 | 98 | Third Amended Chapter 11 Plan , Third Amended Disclosure Statement Filed by Debtor TV-32 Digital Ventures Inc. |
| 5 | 12/07/2010 | 102 | Objection to Debtor's Third Amended Disclosure Statement Filed by Creditor Sterling Savings Bank |
| 6 | 12/23/2010 | 106 | Pre-Hearing Statement (<i>SBA</i>) (RE: related document(s) 102 Objection to Debtor's Third Amended Disclosure Statement (w/proof of service) |
| 7 | 8/13/2010 | 78 | Brief/Memorandum in Opposition to Sterling Savings Bank's Motion for Relief from Automatic Stay Filed by Debtor TV-32 Digital Inc. |
| 8 | 8/13/2010 | 121 | Brief/Memorandum in Opposition to Sterling Savings Bank's Motion for Relief from Automatic Stay Filed by Debtor TV-32 Digital Ventures Inc. |
| 9 | 3/10/2011 | 117 | Motion for Relief from Stay and Memorandum of Points and Authorities In Support Filed by Creditor Sterling Savings Bank (Attachments: Declaration of Lori Crechriou with Exhibits A and B)# 4 Exhibit Exhibit C to Declaration of Lori |
| 10 | 3/4/2011 | 116 | Response to <i>SBA</i> 's "Pre-Hearing Statement" and Supporting Declaration of Booker Wade |
| 11 | 3/2/2011 | 114 | Pre-Hearing Statement (RE: related document(s) 98 Amended Chapter 11Plan, Amended Disclosure Statement). Filed by Attorney US Attorney's Office |
| 12 | 3/9/2011 | | Hearing Held (related document(s): 98 Amended Chapter 11 Plan) Off Calendar. |
| 13 | 3/9/2011 | | Hearing Continued 35 Motion to Appoint Trustee) Hearing scheduled for 05/13/2011 |
| 14 | 12/23/09 | 35 | Motion to Appoint Trustee Filed by Creditor Arlene Stevens (Attachments: # 1 Memorandum of Points and Authorities # 2 Declaration # |
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| 2 | 12/30/2010 | 12/30/2010 | Status Conference Statement of Booker T. Wade in Response to that of SBA |
| 3 | 3/4/2011 | 116 | Response to SBA's "Pre-Hearing Statement" and Supporting Declaration of Booker Wade Filed by Booker T. Wade |
| 4 | 3/9/2011 | | Transcript of Hearing Held 98 Amended Chapter 11 Plan |
| 5 | 3/10/2011 | 3/10/2011 | Motion for Relief from Stay and Memorandum of Points and Authorities in Support of Same Filed by Creditor Sterling Savings Bank (Attachments: # 1 RS Cover Sheet # 2 Declaration of Lori Crechriou Part 1 of 5# 3 Declaration of Lori Crechriou (Part 2 of 5)# 4 Declaration of Lori Crechriou (Part 3 of 5)# 5 Declaration of Lori Crechriou (Part 4 of 5)# 6 Declaration of Lori Crechriou (Part 5 of 5) |
| 6 | 3/24/2011 | 122 | Motion to Strike or Otherwise Limit Appearance of Small Business Administration Filed by Responsible Ind Booker T. Wade |
| 7 | 3/25/2011 | 121 | Brief/Memorandum in Opposition to <i>Sterling's Stay Relief Motion</i> (RE: related document(s) 117 Motion for Relief From Stay). Filed by Debtor TV-32 Digital Ventures Inc. (Shier, Matthew) (Entered: 03/25/2011) |
| 8 | 3/30/2011 | 123 | Brief/Memorandum in Opposition to (RE: related document(s) 117 Motion for Relief From Stay). Filed by Responsible Ind Booker T. Wade |
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| 16 | 4/01/2011 | | Hearing Held (related document(s): 117 Motion for Relief From Stay) Motion for relief from stay is granted effective 45 days from April 1, 2011. Sterling Savings Bank will temporarily agree to forgo the efforts to levy on funds belonging to Arlene Stevens. However, Sterling Savings Bank reserves its rights to defend its claims to the funds in the event that any party in any manner threatens to challenge or interfere with Sterling Savings Bank's rights to levy on those funds. In the event that Sterling Savings Bank is allowed to conduct trustee's sale in 60 days, on May 31,2011, and thereafter confirms that no deficiency results, Sterling Savings Bank agrees to permanently release its claims to the funds belonging to Arlene Stevens. If, however, for reasons attributable to others, Sterling Savings Bank is precluded from conducting its trustee's sale on May 31,2011, Sterling Savings Bank reserves its rights to immediate proceed withal efforts to levy upon the funds belonging to Arlene Stevens, and Sterling Savings Bank acknowledges the 14-day stay is not waived. Adequate Protection Order previously entered is prospectively annulled.Mr. Joe is to provide a copy of the file, excluding the deliberative and privileged documents, to Mr. Shier, Mr. Wade and his client, along with the privileged log. Mr. Wade may share the copy of the file with Ms.Stevens. |
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| 24 | 4/11/2011 | 124 | Objection to Claim No. 7 filed by Minority Television Project, Inc./KMTP-TV and Memorandum of Points and Authorities in Support of Same Filed by Creditor Sterling Savings Bank. (Attachments: # 1 Exhibit Request for Judicial Notice)(Stevenson, Rachel) (Entered: 04/11/2011) |
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| 1 | 4/11/2011 | 126 | Brief/Memorandum in Opposition to Motion to Strike or Limit Appearance of SBA Filed by Attorney US Attorney's Office (Joe, Edwin) |
| 2 | 4/11/2011 | 127 | Declaration of Edwin Joe in Opposition of Motion to Strike or Limit Appearance of SBA |
| 3 | 4/18/2011 | 130 | Order Granting Motion for Relief From Stay |
| 4 | 4/19/2011 | 131 | Brief/Memorandum in Opposition to Motion Filed by Responsible Ind Booker T. Wade |
| 5 | 4/29/2011 | 136 | Motion to Limit Appearance of Small Business Administration Filed by Booker T. Wade |
| 6 | 5/03/2011 | 141 | Motion for Order Directing 2004 Examination of Capital Access Group Inc. Filed by Responsible Ind Booker T. Wade |
| 7 | 5/3/2011 | 142 | Motion for Order Directing 2004 Examination of Sterling Savings Bank. Filed by Booker T. Wade |
| 8 | 5/4/2011 | 147 | Application for Order Directing 2004 Examination of Small Business Administration. Filed by Booker T. Wade |
| 9 | 5/5/2011 | 149 | Order Not Signed Regarding Motion for 2004 Examination |
| 10 | 5/5/2011 | 150 | Order Not Signed Regarding Motion for 2004 Examination |
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| 1 | 5/10/2011 | 146 | Motion to Reconsider (RE: related document(s) 149 Order on Motion for Examination, 150 Order on Motion for Examination) . Filed by Responsible Ind Booker T. Wade (Entered: 05/11/2011) |
| 2 | 5/11/2011 | 155 | Brief/Memorandum in Opposition to Booker Wade's Ex Parte Motion for Reconsideration for Orders Pursuant to Rule 2004 Filed by Creditor Sterling Savings Bank (Stevenson, Rachel) |
| 3 | 5/11/2011 | 157 | Brief/Memorandum in Opposition to Motion to (Strike or) Limit Appearance of SBA Filed by Attorney US Attorney's Office (Joe, Edwin) |
| 4 | 5/11/2011 | 158 | Declaration of Xong Vang in Opposition of Motion to Limit Appearance of SBA Filed by Attorney US Attorney's Office |
| 5 | 5/11/2011 | 159 | Declaration of James Hammersley in <i>Opposition of Motion to Limit Appearance of SBA</i> Filed by Attorney US Attorney's Office (Attachments: # 1 Exhibit Debenture Offering Circular# 2 Exhibit (B) %04 Loan & Debenture |
| 6 | 5/11/2011 | 160 | Declaration of David Simmons in Opposition of Motion to Limit Appearance of SBA Filed by Attorney US Attorney's Office (Attachments: # 1 Exhibit(A) Note# 2 Exhibit (B) Closing Letter with Note Terms# 3 Exhibit (C) Deed of Trust# 4 Exhibit (D) Assignment of Deed of Trust# 5 Exhibit (E)Title Policy# 6 Exhibit (F) Payment Information# 7 Exhibit (G) Authorization for 504 Debenture Guarantee (504 Loan)# 8 Exhibit (H) Debenture Repurchase Date) |
| 7 | 5/12/2011 | 162 | Declaration of David Simmons in Opposition of Motion to Limit Appearance (Refiled to Include Omitted Signature Page - Exhibits not included, See Docket #160 for Full Exhibits) Filed by Attorney US Attorney's |
| 8 | 5/16/2011 | | Reply to SBA Opposition to Motion to Limit Appearance of Small Business Administration |
| 9 | 5/17/2011 | | Ex Parte Motion to Extend Time to File Designation of Record |
| 10 | 5/17/2011 | | Addendum to Reply to SBA Opposition to Motion to Limit Appearance of Small Business Administration |
| 11 | 5/17/2010 | | Declarations of Booker Wade and Mark Muntean |
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Proof of Service by Mail

I, Melvina Jones, am employed in the County of Santa Clara, State of California. I am over the age of eighteen years and not a party to this action. My business address is 1010 Corporation Way, Palo Alto, CA. On May 10, 2011, I deposited in the U S Mail first class postage prepaid, a copy of the document entitled

**APPELLANT BOOKER T. WADE JR.'S DESIGNATION OF RECORD
AND TRANSCRIPTS AND STATEMENT OF ISSUES ON APPEAL**

and addressed to the persons shown below.

Matthew Shier, Esq.
Pinnacle Law Group
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San Francisco, CA 94104

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Edwin L. Joe Esq.
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455 Market Street Suite 600
San Francisco, CA 94105-2420

I declare under penalty of perjury under Federal law and laws of the State of California that the foregoing is true and correct.

Executed on May , 2011, at Palo Alto, California.

Melvina Jones

[Handwritten signature]